

PROCEDURES RELATING TO THE COLLECTION,
STORAGE AND DISSEMINATION OF INFORMATION
CONCERNING THE ACTIVITIES OF UNITED STATES PERSONS

For the purpose of implementing Section 2-208 of Executive Order 12036, the Director of Central Intelligence (DCI) has established, and the Attorney General has approved, the following procedures relating to the Central Intelligence Agency's (CIA's) collection, storage and dissemination of information which is not publicly available* concerning the activities of United States persons, without the consent of such persons.

CRITERIA

1. CIA will not collect, store or disseminate information that is not available publicly concerning the activities of United States persons without their consent** unless such collection, storage and dissemination is permitted by these procedures and such information is relevant to an authorized function of CIA and falls within one or more of the following categories:

a. Information concerning corporations or other commercial organizations or activities that constitutes foreign intelligence or counterintelligence, including information (1) that identifies such corporations or other commercial organizations as manufacturers of equipment or related nomenclature or (2) if deleted would hamper the correlation of information on the same subject obtained from other sources or impede the effective targeting of intelligence requirements for other sources;

b. Information arising out of a lawful counter-intelligence or personnel, physical or communications security investigation including information needed to understand or assess such investigations, information indicating that a United States person may be a target of the intelligence activities of a foreign power, and information indicating that a United States person is engaging in the unauthorized disclosure of properly classified national security information.

*Publicly available information concerning the activities of United States persons may be collected, stored and disseminated whenever such information is relevant to any authorized function of CIA.

**Consent to collect implies consent to store or disseminate.

Special care must be exercised in the use of this paragraph to ensure that information on domestic political views or activities is not collected, stored or disseminated under the belief that it is counterintelligence or related to a personnel, physical or communications security investigation;

c. Information concerning present or former employees, present or former intelligence agency contractors or their present or former employees, or applicants for any such employment or contracting, which is needed to protect foreign intelligence or counterintelligence sources or methods from unauthorized disclosure;

d. Information needed solely to identify individuals in contact with those persons described in paragraph c immediately above or with someone who is the subject of a lawful foreign intelligence or counterintelligence investigation;

e. Information concerning persons who are reasonably believed to be potential sources or contacts, but only for the purpose of determining the suitability or credibility of such persons;

f. Information constituting foreign intelligence or counterintelligence gathered abroad or from electronic surveillance conducted in conformance with approved procedures or from cooperating sources in the United States;

g. Information about a person who is reasonably believed to be:

- (1) acting on behalf of a foreign power;
- (2) engaging in international terrorist activities;
- (3) engaging in narcotics production or trafficking; or
- (4) endangering the safety of a person protected by the United States Secret Service or the Department of State;

h. Information acquired by overhead reconnaissance not directed at specific United States persons;

i. Information concerning United States persons abroad that is obtained in response to requests from the Department of State for support of its consular responsibilities relating to the welfare of those persons; or

j. Information concerning persons or activities that pose a clear threat to Intelligence Community facilities or personnel. CIA may store only such information relating to threats to CIA facilities or personnel.

2. CIA will not request or encourage any foreign person or organization to collect, store or disseminate on CIA's behalf any information concerning the activities of United States persons unless it meets the criteria set forth in paragraph 1 immediately above.

3. Where doubt exists as to whether particular information meets the criteria, the question should be referred through the chain of command or if necessary to the Office of General Counsel.

AUTHORIZED COLLECTION OF NONPUBLICLY AVAILABLE INFORMATION

4. Scope. These procedures deal with both purposeful and incidental collection* of information that is not available publicly concerning the activities of a United States person who has not consented to such collection. Purposeful collection occurs when such information is acquired as a result of collection activities directed at the particular United States person who is the subject of that information. Incidental collection occurs when information is acquired concerning the activities of a United States person who is not the subject of purposeful collection. Incidental collection includes such information being voluntarily imparted to CIA without CIA's solicitation.

*Collection by electronic surveillance, certain surreptitious and continuous electronic or mechanical monitoring, unconsented physical searches and mail surveillance, physical surveillance and undisclosed participation in domestic organizations are governed by separate procedures as are certain foreign intelligence and counterintelligence activities within the United States. Collection by examination of tax returns or tax information will be done only to the extent permitted by applicable law.

Purposeful Collection

5. Purposeful collection of information that concerns the activities of a United States person and that is not available publicly may be conducted on an unconsented basis if it meets one or more of the criteria of paragraph 1 above and if it is collected within the limitations set forth in paragraph 6 below and in accordance with the approval procedures set forth in paragraph 7 below.

6. Limitations. Such purposeful collection will be subject to the following limitations:

a. No such collection will be undertaken unless it is conducted by the least intrusive means possible* that in the judgment of CIA will be effective for such collection;

b. No such collection will be undertaken for the primary purpose of supporting a criminal investigation or prosecution.

c. Information collected for the purpose of determining security suitability or credibility of potential sources of contacts will be limited to lawful records checks or inquiries intended only to establish or confirm identity or commercial reliability.

d. Approvals granted pursuant to paragraph 7 below will be valid for no more than 180 days after which a renewal shall be required for continuation. All such renewals shall be subject to the same criteria as the original approval.

*An intelligence activity shall be considered to use the least intrusive means possible under all the circumstances of the particular case if less intrusive means cannot acquire intelligence of the nature, reliability, and timeliness required. No method involving a greater intrusion shall be requested or approved unless it has been determined that a less intrusive means will not be reasonable in the specific situation. As a general rule electronic surveillance, surreptitious and continuous monitoring and unconsented physical searches shall be regarded as more intrusive techniques than physical surveillance or other means of obtaining information that is not available publicly. Microphonic surveillance shall be considered more intrusive than telephonic surveillance and surveillances of private residential property shall be regarded as more intrusive than similar surveillances of business property.

7. Approval procedures. The unconsented collection of nonpublicly available information that concerns the activities of United States persons will be subject to the following approval conditions and procedures:

a. Collection will be approved on a case-by-case basis* by officials designated in writing by the DCI or DDCI.

b. If any official designated pursuant to this paragraph has refused to approve or has disapproved a request to authorize collection, any subsequent request for such approval will note that prior decision. Further, the official who refused to approve or who disapproved that request, as long as that official is a current CIA employee, will be notified in writing of all such subsequent requests. A designated official will approve such collection only pursuant to his determination that there is positive authority for CIA to undertake such collection, and that there is evidence that will support a finding that the collection will produce the type of information CIA is authorized to collect as specified in paragraph 1 above and will comply with the limitations specified in paragraph 6 above.

c. Requests for approval pursuant to this paragraph will include a statement of the positive authority relied upon for the unconsented collection; a statements of the facts and circumstances indicating that the collection will produce the type of information that CIA is authorized to collect, as specified in paragraph 1 above, that collection is by the least intrusive means possible** that are likely to produce the information sought and that the subject of such collection cannot be advised of CIA's interest in him because such would frustrate the collection or jeopardize or compromise a CIA activity or operation.

d. Requests for approval pursuant to this paragraph will be forwarded through the General Counsel whenever doubt exists as to whether the requested collection is authorized by these procedures.

e. Requests for approval pursuant to this paragraph, when necessary, may be oral, and the authorization may also be oral, but in these circumstances the request and authorization will be confirmed in writing as soon as possible.

*Individual approvals on a case-by-case basis are not required for security suitability or credibility investigations that only involve routine checks of the records of other Federal agencies (National Security checks).

**See the relevant footnote associated with paragraph 6.

Incidental Collection

8. Collection activities directed at non-United States persons will be conducted in such a way as to minimize the acquisition of information that is not available publicly concerning the activities of United States persons.

9. Collection activities directed at United States persons will be conducted in such a way as to minimize the acquisition of information that is not available publicly concerning such persons that does not fall within the categories specified in paragraph 1 above, as well as information that is not available publicly regarding the activities of other United States persons at whom the collection effort is not directed.

STORAGE OF INFORMATION

Scope

10. These procedures deal with the storage of nonpublicly available information concerning the activities of United States persons, whether purposefully or incidentally collected on an unconsented basis.

Previously Collected Information

11. Other than for dissemination purposes and except as otherwise provided for in CIA's Records Management Program, such information collected prior to the date of the Attorney General's approval of these procedures will not have to be reviewed to determine if it meets one or more of the categories specified in paragraph 1 above.

New Information (Not Yet Stored)

12. Such information stored by CIA after the date of the Attorney General's approval of these procedures will meet the criteria specified in paragraph 1 above. Such information that does not meet that criteria will be destroyed, except when one or more of the following conditions apply:

a. Information collected for the purpose of determining security suitability or credibility of potential sources or contacts will be destroyed if the United States person who was the subject of the collection is not contacted for use within one year from the completion of the collection or who upon being contacted, refuses or declines to be a source or contact.

b. The temporary retention of such information for a period not to exceed 180 days, is authorized for the purpose of determining whether, either alone or in conjunction with other information, it meets the criteria specified in paragraph 1 above.

c. Such information may be stored in such a manner that it cannot be readily retrieved by reference to the name or other identifying data of the United States person to whom it relates.

d. Such information that is suspected to be enciphered or to contain a secret meaning may be stored; however, once such information is determined not to be enciphered or to contain a secret meaning, it will be destroyed unless it otherwise qualifies within the scope of another category of this paragraph.

e. Such information that is required by law to be retained or required solely for administrative purposes may be stored.

f. Storage of such information concerning the activities of a person who was not a United States person when the information was acquired but who subsequently becomes a United States person is authorized.

DISSEMINATION OF INFORMATION

13. Scope. These procedures deal with the dissemination of nonpublicly available information concerning the activities of United States persons, whether purposefully or incidentally collected on an unconsented basis.

14. Such information may be disseminated within CIA. Such information may also be disseminated outside of CIA where it is relevant to authorized functions performed by the persons or entities to whom it is to be disseminated and where it meets one or more of the following conditions:

a. Such information which meets the criteria of paragraph 1 above that is stored by CIA may be disseminated to agencies within the Intelligence Community or to entities of cooperating foreign governments if such agencies or entities agree to such further restrictions on dissemination as might be required.

b. Such information that indicates involvement in activities that may violate federal, state, local or foreign laws may be disseminated to appropriate law enforcement agencies having jurisdiction or responsibility for the investigation or prosecution of such activity, provided that no such information will be disseminated to the Law Enforcement Assistance Administration except through the FBI.

c. Such information relating to the security suitability or credibility of potential sources or contacts may be disseminated to other United States intelligence entities having a likely need or interest in obtaining assistance from such an individual or organization.

d. Information relating to the trustworthiness of any United States person may be disseminated to any department or agency that has granted or is considering whether to grant any such person a security clearance or access to classified information, or to any agency having a responsibility to investigate such a person for the purpose of determining whether such clearance or access should be granted.

e. The dissemination of such information for reasons other than those set forth in a-d immediately above may be conducted if the DCI or DDCI determines, with the specific prior concurrence of the Attorney General, that such dissemination is necessary to a lawful activity of the United States.

15. The identity of the United States person or persons involved in such information may be included where it is relevant to understanding or assessing that information which is to be disseminated. If the identity is not relevant, it will be replaced with a generic term.

GENERAL EXCEPTIONS

16. Nothing in these procedures shall be construed to prohibit, where a person's life or physical safety is reasonably believed to be in imminent danger, the collection, storage or dissemination of information concerning United States persons that is relevant to such danger or the prevention, reduction, or elimination thereof.

17. Nothing in these procedures shall be construed to prohibit the storage or dissemination of information necessary for the purposes of oversight, accountability or redress

or which is relevant to any administrative, civil or criminal proceeding or purpose of which CIA has prior notice. Dissemination of such information shall be limited to that necessary for such purposes or proceedings.

18. Information as addressed in these procedures does not concern "the activities of United States persons" if it involves only the name, title (if any), address, date and place of birth and/or physical description of a natural person or the name, address, characterization (e.g., industrial firm, fraternal organization, charitable organization) and/or identity of the officers of an organization.

INTERPRETATION

19. Significant questions as to the coverage and interpretation of these procedures will be referred to the Office of General Counsel, and as necessary the Department of Justice. The DCI may modify these procedures upon the express approval of the Attorney General.

DEFINITIONS

20. For the purposes of these procedures the term:

a. "Administrative purpose" means a purpose related to the procurement, personnel, housekeeping, and other functions of CIA that provide support to its intelligence activities.

b. "Agencies within the Intelligence Community" refers to the following organizations:

- (1) The CIA;
- (2) The National Security Agency;
- (3) The Defense Intelligence Agency;
- (4) The Offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;
- (5) The Bureau of Intelligence and Research of the Department of State;
- (6) The intelligence elements of the military services, the FBI, the Department of the Treasury, the Department of Energy, and the Drug Enforcement Administration; and

(7) The staff elements of the Office of the DCI.

c. "Attorney General" includes the Acting Attorney General.

d. "Available publicly" refers to information that any member of the public could lawfully obtain by request or observation, or information, including public communications, that is lawfully accessible to any member of the public. Nothing herein authorizes a search or surveillance that is otherwise regulated by Attorney General-approved procedures.

e. "Central Intelligence Agency" and "CIA" includes the staff elements of the Office of the Director of Central Intelligence.

f. "Contact" in the context of "an individual in contact" means a reasonable belief that there has been communication between two persons, either directly or through one or more intermediaries.

g. "Counterintelligence" means information gathered and activities conducted to protect against espionage and other clandestine intelligence activities, sabotage, and international terrorist activities or assassinations.

h. "Deputy Director of Central Intelligence" or "DDCI" includes the Acting Deputy Director of Central Intelligence.

i. "Director of Central Intelligence" or "DCI" includes the Acting Director of Central Intelligence.

j. "Employee" means a person employed by, assigned to, or acting for an agency within the Intelligence Community.

k. "Foreign power" means

(1) a foreign government or any component thereof, whether or not recognized by the United States;

(2) a faction of a foreign nation or nations, not substantially composed of United States persons;

(3) an entity that is openly acknowledged by a foreign government or governments to be directed and controlled by such foreign government or governments;

(4) a foreign-based group engaged in international terrorist activity and any other group engaged abroad in any such activity; or

(5) a foreign-based political organization not substantially composed of United States persons.

1. "Foreign intelligence" means information relating to the capabilities, intentions and activities of foreign powers, organizations or persons, but not including counterintelligence except for information on international terrorist activities.

m. "Identity of the United States person" includes the name or other personal identifying data relating to such person.

n. "Information that is stored" occurs when information is organized in such a way that it may readily be retrieved by reference to the name or identity of the United States person who is the subject of that information.

o. "International terrorist activities" means any activity or activities which:

(1) involves killing, causing serious bodily harm, kidnapping, or violent destruction of property, or an attempt or credible threat to commit such acts;

(2) appears intended to endanger a protectee of the Secret Service or the Department of State or to further political, social or economic goals by intimidating or coercing a civilian population or any segment thereof, influencing the policy of a government or international organization by intimidation or coercion, or obtaining widespread publicity for a group or its cause; and

(3) transcends national boundaries in terms of the means by which it is accomplished, the civilian population, government, or international organization it appears intended to coerce or asylum.

p. "A lawful counterintelligence, personnel, physical or communications security investigation" means any such investigation based on any credible suggestion that the subject of such investigation is acting on behalf of a foreign power, poses a threat to Intelligence Community personnel, classified information, communications or facilities, or has characteristics which make him vulnerable to the intelligence activities or objectives of a foreign power.

q. "A potential contact" is a person who is situated by acquaintance, friendship, affiliation, position or other factor so as to be able to have contact with a potential source.

r. "A source" or "a potential source" is a person who is situated by knowledge, training, experience, position or responsibility so as to have access to or be able to obtain or develop foreign intelligence, counterintelligence or narcotics production or trafficking information.

s. "United States," when used to describe a place, includes the territories of the United States.

t. "United States person" means

(1) a citizen of the United States;

(2) an alien lawfully admitted for permanent residence, provided that a person outside the United States may be presumed not to be a United States person until information to the contrary is obtained and provided, further, that an alien known to have been admitted for permanent residence may be presumed to have lost status as a United States person after one year of continuous residence outside the United States until information indicating an intent to return to the United States as a permanent resident alien is obtained;

(3) an unincorporated association organized in the United States or substantially composed of United States citizens or aliens lawfully admitted for permanent residence; provided that unincorporated associations outside the United States may be presumed not to be United States persons until information to the contrary is obtained; or

(4) a corporation incorporated in the United States. A corporation or corporate subsidiary incorporated abroad, even if partially or wholly owned by a corporation incorporated in the United States, is not a United States person.

A person in the United States shall be presumed to be a United States person unless information to the contrary is obtained. A non-United States person is presumed to remain such unless information to the contrary is actually obtained by CIA.

21. Activities undertaken on the basis of "consent" shall only be undertaken if (1) the subject of the activity has specifically consented, in writing if possible or orally, to that activity; (2) (in the case of government employees or visitors to government facilities) there is a visible posted notice on government property which clearly states that the place or object where the notice is posted is subject to a particular form of search or surveillance and the search or surveillance is otherwise reasonable; (3) (in the case of government employees) the activity is undertaken in accordance with published rules or regulations which are both available to all such employees and are approved by the Attorney General and the search or surveillance is otherwise reasonable; or (4) except in the case of a search or surveillance, the subject of a lawful investigation has either directly or indirectly authorized an agency employee to undertake that activity regardless of the subject's knowledge of the employee's agency affiliation.

Date

Director of Central Intelligence

I approved the foregoing procedures in accordance with subsection 2-208 of Executive Order 12036. In my opinion collection, storage and dissemination of nonpublicly available information concerning the activities of United States persons conducted pursuant to and in accordance with these procedures is lawful. Based on the authorities of the Constitution, the statutes of the United States, and Executive Order 12036, it is my opinion that these procedures form the exclusive authority by which CIA can collect, store and disseminate nonpublicly available information concerning the activities of United States persons.

Date

Attorney General